

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department- Erstwhile Khammam District- Revision Petition filed by Sri Kaipu Venkat Reddy S/o Rosi Reddy R/o.Morampally Banjar (V) Burgampad (M) Khammam District now Bhadradi Kothagudem District against the orders in CMA No.79/1987, dated 04.05.2001 of Agent to Government, Khammam District – Revision Petition Dismissed - Orders – Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 28

Dated: 10-07-2023,
Read the following:-

- 1) Revision Petition filed by Sri Kaipu Venkat Reddy S/o Rosi Reddy R/o.Morampally Banjar (V) Burgampad (M) Khammam District dated 18.04.2002.
- 2) Govt.Memo.No.6588/LTR-2/2002, dated 13.06.2002.
- 3) Orders of the Hon'ble High Court of Judicature, Andhra Pradesh at Hyderabad in WP No. 13118 of 2002, dated 22.7.2002.
- 4) From the District Collector, Khammam District letter Rc.No.F2/CMA-79/1987(RP 6588/LTR-2/20002-1, dated 13.06.2008.
- 5) Govt.Letter.No.6588/LTR-2/2002, dated 15.06.2017, 27.02.2018, 26.04.2018, 03.08.2018 and 26.11.2019.

ORDER:-

In the reference 1st read above, Sri Kaipu Venkat Reddy S/o Rosi Reddy (Legal representative of Late Smt.Kaipu Chandramma) R/o.Morampally Banjar (V) Burgampad (M) Khammam District has filed Revision Petition before the Government against the orders passed by the Agent to Government, Khammam in CMA No.79/1987, dated 04.05.2001 in respect of land in Sy.No.578/1 admeasuring Acs.1-20 gts at Morampalli Banjar village, Burgampad (M), Khammam district, U/s.6 of APSA LTR, 1959 – gist is as follows:

- i) Transaction referred to in this case does not amount to transfer and as such the provisions of APSALTR are not applicable to the said transaction.
- ii) The court below lost sight of the fact that it is the deceased 1st appellant Late (Smt.Kaipu Chandramma) that her deceased son purchased the property through agreement of sale on 1.6.1964. Hon'ble Full Bench of the High Court of Andhra Pradesh in a case reported in I.L.R. 2001 A.P. page 502 held that through an agreement of sale no interest in an immovable property is created as such, agreement of sale does not amount to transfer. In view of the judgement of Hon'ble Full Bench the transactions in this case does not amount to transfer and as such, there is no contravention of section 3 of APSA LT Regulation.
- iii) Learned Agent to Government, Khammam erred in disbelieving the Land Revenue receipt pass book filed by the appellant which clearly goes to show that the appellant family are in possession of the land in dispute to an extent of acs.1.20 gts out of Sy.No.578/1 situated at Morampally Banjara, Burgampad Mandal, Khammam District.
- iv) Learned Agent to Government, Khammam erred in not giving any opportunity to the appellant at the time of examination of pahanies when he wants to rely on the pahanies. He failed to observe that it is the Revenue Officials i.e. Mandal Revenue Officer and the Revenue Divisional Officer who maintain the Revenue records and the pahanies are in the custody of the revenue officials as such the question of petitioner tampering or interpolating the pahanies do not arise. When the Agent to Government doubted genuineness of the pahanies feeling that there are corrections in the pahanies, he could have conducted enquiry as to who did said corrections and under what authority such corrections were made. In the absence of any such enquiry, he ought not to have jumped to a conclusion that there are corrections in the pahanies simply because they are made with different ink especially when it is revenue authorities who were holding custody of said pahanies.

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- v) Learned Agent to Government failed to observe that the provisions of APSALTR are applicable only when there is transfer of any movable property in favour of a non-tribal after commencement of the said regulation in agency area. In the present case, absolutely there is no material to show that there is any transfer of immovable property in favour of the petitioner at all as such the courts below have no jurisdiction to initiate the proceedings.
- vi) Courts below erred in ignoring that the proceedings initiated by them are null and void as the 1st respondent herein (Syed Asrar) died prior to initiating LTR proceedings by the 2nd respondent (Agent to Govt. Khammam). It is settled law that any proceedings initiated against a dead person is nullity.
- vii) Learned Agent to Government failed to see that no notice has been served on the 1st petitioner herein and as such she could not file her written explanation before the 2nd respondent herein.
- viii) The judgment referred to by the learned Agent to Government in his order is not at all applicable to the facts of this case, as an agreement of sale is not a compulsorily registerable document.

2. The Revision Petitioner has also filed WP No.13118 of 2002 before the Hon'ble High Court of Judicature, Andhra Pradesh at Hyderabad on 19.7.2022 and it was disposed on 22.7.2022 directing that the Revision shall be disposed within a period of three months and till the disposal, the petitioner shall not be dispossessed, if not already dispossessed from the land in question.

3. In the reference 2nd read above, Government had sent a copy of the Revision Petition to the Collector, Khammam district and he was requested to furnish Para Wise Remarks and connected case records and in the reference 3rd read above the Collector, Khammam District has furnished Para Wise Remarks and connected case records. Parawise remarks follows;

- The provisions U/s 3(a) (i), (ii), (iii) clearly specify the appellate provision of jurisdiction for entertaining the Appeal under the Act. Thus, the Revision Petitioner failed to observe that there is appeal provision under the Act. The Revision Petitioner simply and in a routine fashion alleged that the orders passed in appeal by the agent to Government are without jurisdiction, is baseless.
- The Appellate authority also examined and verified the sada sale agreement and it is doubtful as the signature prima-facie appears to be with correction of date of sale and signature is also tampered. The hand writing of the agreement is quite different to that, the signature i.e. attested by the persons on the agreement. Further neither name of the appellant nor grandson of the appellant who is said to be the purchaser of the land not exists in pattedar column or in occupants column of the pahani at any time of the crucial period of LTR came into effect.
- Unless the land under dispute is got entered in favour of her grandson's name in the Pahani, the disputed land would not come into her possession. Therefore, it was held in appellate court that anticipating further complications, the appellant herein got entry of her grandson's name in the pahani. But her argument fails by the fact that her grandson or herself were never in possession of the land was evidenced by the pahani.
- It is a well settled law that right title and interest of the vendor extinguishing only by executing deed of conveyance duly registered under registration Act. Hence, it cannot be admitted as primary or substantive evidence if any other primary proof exists.
- Under the provisions of Sec.54 of Transfer of Property, it is clearly defined "....in the case of tangible immovable property of the value of Rs.100/- and upwards or in case of reversion or other intangible thing can be made only by a registered instrument...."

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From the above, it is clear that unless document of the sale is registered it will not be validated. Hence, the sada sale was not taken into consideration. The contention of the petitioner that agreement of sale is not compulsory register able document, is not at all correct under the provisions of transfer of property Act, 1982. Further, under Rule 18 of AP Agency Rules 1969 any transfer taking place in schedule area, the consent of Agent to Government is mandatory.

- From the lower court order dated 28.8.1987 in LTR case No.813/84/Bpd that the case was initiated on the report dated 30.11.1984 of the Special Deputy Tahsildar (LTR), Burgampad and notice in form-E under rule 7 (1) and 7 (2) of the LTR Rules, 1969 was issued on the respondent and got served in the manner specified in Rule 10 of the said Rules on 28.5.1987. Knowing facts of the order, the appellant came up with an appeal before the Agent to Government and after dismissal, the present Revision has been filed before the Government. Therefore, the contention that no notice was issued to the concerned, is false and baseless.

3. In the reference 5th read above, Government have issued the notices to the concerned parties and conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Agent to Government observed that;

Case was previously called on:

15.07.2017 .. All are absent.
17.03.2018 .. Revision Petitioner & Respondent Absent.
05.05.2018 .. Adjourned.
18.08.2018 .. Counsel for the Revision Petitioner absent.

Case called on 7.12.2019. Petitioner called absent. Counsel for the Petitioner present.

4. Perused the record.

5. As per orders of Special Deputy Collector(TW) Paloncha in case No.813/94/Bpad, dated 28.08.1987:

- Case was initiated on the report of Special Deputy Tahsildar (LTR), Burgampad, dated 30.11.1984.
- Syed Asrar (proforma petitioner) was the Jagirdar while non-tribal respondent is in possession of suit land as cultivator vid ecol.16 of the pahani extract for the year 1986-87.
- Neither the petitioner is legally entitled to sell the land nor the non-tribal respondent is permitted to purchase land in the agency tract under the amended Regulation 1 of 1959. It is void.
- Therefore, passed orders for ejectment of non-tribal respondent for the land admeasuring acs.1.20 gts situated in Sy.No.578/1 of Morampalli village in Burgampad Mandal, Khammam District.

6. Aggrieved by the above orders of the Special Deputy Collector (Tribal Welfare), Bhadrachalam, dated 28.08.1987, the Appellant viz., Sri Kaipu Venkat Reddy S/o Rosi Reddy R/o.Morampally Banjar (V) Burgampad (M) Khammam District had filed an Appeal before the Appellate Authority i.e. Agent to Government, Khammam. The Agent to Government & Collector, Khammam dismissed the Appeal on 04.05.2001 on the following grounds:

- Land under dispute in Sy.No.578/1 of Morampalli Banjar village of Burgampad Mandal is coming under the Agency area and attracts provisions under LTR. Transfer of land is between non-tribals.
- As per entries available in the pahani against Sy.No.578/1 which was a vast area covering an extent of Acs.212.34 gts upto 1962-63 and sub-divided in the year 1963-64 as per it was consisting of acs.5.00 in Sy.No.578/1. Syed Jannath Ali was the pattedar upto 1962-63 and name of Sayyad Asrar along with other names is existing in pattedar columns for the year 1964-65, 1966-67 whereas name of purchaser of land from Jagirdar does not

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exist either in pattedar column or in occupant's column of the pahani at any time of the crucial period of LTR Regulation came into effect. The entries made in the pahani against the same survey number are with different ink and hand-writings which clearly show that name of husband of the appellant interpolated with a malafide intention to misguide this court.

- The document filed by the appellant is a clumsy as the date of extension clearly goes to show that it is tampered. Appellant failed to get the document registered prior to promulgation of LTR provisions. She also failed to produce corroborative evidences such as land revenue receipts in having possession over the suit schedule land to substantiate legal right.
- ROR Pass Books are not substantive evidence as they are not carrying any official seal and do not seem to be issued by Government. Further ROR Pass Books issued against LTR Act are not valid as per Section 9 (1) (a) (iv) & (6) of ROR Act.
- All this proved that the appellant has no corroborative evidence to establish her right – hence, orders of SDC (TW) Paloncha in LTR case No.813/84/Bpd dt.28.8.1987 were upheld and appeal was dismissed.

7. The case is pending since 18.04.2002 i.e., for more than Twenty (20) years without any valid reasons/grounds, and further the revision petitioner has failed to prove the case with sufficient documents evidences, Government after careful examination of the matter hereby DISMISS the Revision Petition filed by the petitioner Sri Kaipu Venkat Reddy S/o Rosi Reddy R/o.Morampally Banjar (V) Burgampad (M) Khammam District and upheld the orders of the lower and appellate authorities i.e. Special Deputy Collector (TW), Paloncha in LTR Case No.813/94/Bpad, dated 28.08.1987 and Agent to Government & Collector, Khammam District, CMA.No.79/1987, dated 04.05.2001 respectively.

8. The Agent to Government cum District Collector, Bhadradi Kothagudem district shall take necessary further action accordingly. The original case records received in the reference 3rd read above are returned herewith to them and acknowledge the receipt of the same.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. CHRISTINA Z.CHONGTHU,
SECRETARY TO GOVERNMENT.

To

Sri Kaipu Venkat Reddy S/o Rosi Reddy R/o.Morampally Banjar (V)
Burgampad (M) Bhadradi Kothagudem District.

(Though the Tahsildar, Burgampadu Mandal)

Legal Representatives of late Syed Asrar

(Though the Tahsildar, Burgampadu Mandal)

The Agent to Government cum District Collector,

Bhadradi Kothagudem district (with original case records) (w.e) (BY RPAD)

Copy to:-

The Agent to Government cum District Collector,
Khammam district

The Special Deputy Collector (TW), Bhadrachalam,
Bhadradi Kothagudem District.

The Thasildar, Burgampadu Mandal , Bhadradi Kothagudem District.

(With a request to serve the same to the Revision petitioner and unofficial
Respondent and submit the dated acknowledgement)

Sri Nalinikanth, Hari Sreedhar Advocates,

Flat No.105, Srinivasa Apartments, Humayun Nagar, Hyderabad-500028

The PS to M(STW)

The PA. to Secretary(TW)

The Spl. Secretary(TW)

SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER.